



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D C 20548

CIVIL DIVISION

March 19, 1970

Dear Mr. Kuykendall:

We have made a review for the settlement of the accounts of certifying officers of the Indian Claims Commission through fiscal year 1969. Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We found the procedures and controls for processing cash receipts and disbursements in use by the Indian Claims Commission to be generally satisfactory. However, we noted certain areas in which improvements in the Commission's procedures and controls could be effected. These matters were discussed at a meeting with you and the Executive Director of the Commission on February 7, 1970, following our letter of January 23, 1970, to you, requesting further information on some of the matters observed by us during our review. The subjects discussed and our suggestions and recommendations are summarized below.

TRAVEL

BEST DOCUMENT AVAILABLE

1. Lack of travel regulations to supplement  
Standardized Government Travel Regulations  
(SGTR)

We were advised by Commission employees that travel regulations for the Indian Claims Commission to supplement the Standardized Government Travel Regulations (Bureau of the Budget Circular 4-7) have not been issued. Supplemental travel regulations are needed to establish Commission policy and guidelines for such items as the following:

- (1) Allowance of actual subsistence expenses. (See SGTR, sec. 6.12.)
- (2) Rates of per diem. (See SGTR, sec. 5.2.)
- (3) Reimbursement limitations on use of taxicabs to and from common carrier terminals. (See SGTR, sec. 3.1b.)
- (4) Mileage allowance for use of privately owned motor vehicles. (See SGTR, sec. 3.5c.)
- (5) Regulations for travelers reporting lost or stolen transportation requests. (See SGTR, sec. 4.1c.)

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- (6) Cash payments for common carrier transportation in amounts of \$15 or less. (See SGTR, sec. 4.2.)
- (7) Authority for travel. (See SGTR, secs. 2.1a and 2.1b.)
- (8) Manner of submitting travel vouchers (See SGTR, sec. 12.3)

You advised us that supplemental travel regulations would be issued for the Commission.

Several matters concerning questionable practices relating to the use of travel funds are discussed below and should be considered in connection with the issuance of supplemental travel regulations.

## 2. Allowance of actual subsistence expenses

Section 6.12 of the Standardized Government Travel Regulations provides instructions applicable to allowance of actual subsistence expenses. This section states in part:

"Authorization or approval will be limited to specific travel assignments where due to the unusual circumstances of the assignment the maximum per diem allowance would be much less than the amount required to meet the necessary subsistence expenses of a traveler. \* \* \* The amount of reimbursement which may be authorized or approved for each calendar day, or fraction of a day, is limited by statute. The maximum amount is (a) for travel within the continental United States, \$30 \* \* \*," (See sec. 6.12b(1).)

"\* \* \* Actual and necessary subsistence expenses incurred on a travel assignment for which reimbursement is claimed by a traveler will be itemized in a manner prescribed by the heads of departments and establishments which will permit at least a review of the amounts spent daily for (1) lodging, (2) meals, and (3) all other items of subsistence expenses. Receipts will be required at least for lodging." (See sec. 6.12f.)

Public Law 91-114, approved November 10, 1969, increased the maximum per diem allowance to \$25 per day, and the maximum subsistence allowance to \$40 per day, for travel within the continental United States.

# BEST DOCUMENT AVAILABLE

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On April 1, 1968, the then Chairman of the Commission addressed a memorandum to the Clerk of the Commission, Subject: Per Diem authorization. The memorandum states:

"1. Pursuant to the provisions of Government Travel Regulations (Bureau of the Budget Circular 4-7, Mar. 1, 1965, sect. 6.12(b) 1 & 2) per diem authorization for members of this Commission traveling to remote or isolated areas is approved in unusual circumstances in amounts not to exceed \$30 per calendar day. This authorization is predicated on the fact that cost of living and dining facilities costs in remote areas far exceed those available in cities. Further, Commissioners are called upon to meet unusual demands in pursuance of their official functions.

"2. Other employees of the Commission may be authorized additional allowances in pursuance of their official duties as certified by the Clerk of the Commission."

During our review we examined travel vouchers for Commissioners and other employees of the Commission, for the period January 1, 1968 - October 15, 1969, inclusive. There were only two trips for employees below the Commissioner level for which the actual subsistence allowance was claimed, and for each trip the travel voucher included the information required by the Standardized Government Travel Regulations.

For the period between April 1, 1968, the date of the Chairman's memorandum pertaining to the \$30 subsistence allowance, referred to above, and August 28, 1969, the date of a memorandum to the Commissioners from the Executive Director relating to his recommendation for authorization of future subsistence expenses, three Commissioners, according to travel vouchers examined by us, made a total of 27 trips for which actual subsistence of \$30 per day was claimed. The total number of days was approximately 99, with claims for subsistence at \$30 per day amounting to a total of about \$2,970. None of the travel vouchers for the 23 trips showed itemization of subsistence expenses and none were supported by any receipts located by us.

We suggested that each Commissioner who claimed the \$30 allowance should be advised to submit any available receipts and itemize the expenses incurred, if possible. We suggested that, otherwise, a statement be obtained from each Commissioner concerned stating whether or not the total expenses reimbursed by the Government had been incurred. In the event any amounts reimbursed exceeded the actual expenses, the excess should be refunded. You agreed with the suggested procedures.

We also suggest that the Commission issue regulations which limit the authorization of travel on an actual expense basis to specific travel assignments where due to unusual circumstances the maximum per diem allowance would be much less than the amount required to meet the necessary subsistence expenses of the traveler.

### 3. First-class air travel

Section 3.6c of the Standardized Government Travel Regulations provides in part:

"It is the policy of the Government that persons who use commercial air carriers for transportation on official business should use less-than-first-class accommodations, instead of those designated 'first class,' with due regard to efficient conduct of Government business and the travelers' convenience, safety, and comfort. In view of this policy the use of first-class accommodations should be limited to the following instances:

"(a) Regularly scheduled flights between authorized origin and destination points provide only first-class accommodations.

"(b) Space is not available in less-than-first-class accommodations in time to carry out the purpose of the travel.

"(c) An authorizing officer authorizes or approves the use of first-class accommodations as necessary for the conduct of the mission or for reasons of the traveler's health."

For the period January 1, 1968, through October 15, 1969, the travel vouchers examined by us, showed that the Commissioners used commercial air carriers for 22 trips, some of which involved the issuance of more than one transportation request. The travel vouchers showed that first-class accommodations were furnished in all but two instances. We were unable to locate any documentation authorizing the first-class air travel or justification for use of such travel.

For the period January 1, 1968, through October 15, 1969, employees other than the Commissioners, according to travel vouchers examined by us, also used commercial air carriers for 27 trips, some of which involved the issuance of more than one transportation request. First-class accommodations were used on only three occasions. Specific authorization

with justification was approved in two of the latter three cases, and in the other case the traveler indicated on the travel voucher that only first-class accommodations were available.

In our opinion, the almost exclusive use of first-class commercial air travel by the Commissioners, without specific justification, is contrary to the provisions of the Standardized Government Travel Regulations.

You advised us that you would consider this matter further before reaching a definite conclusion concerning the instructions on this matter to be included in the Commission's regulations.

We suggest that the Commission issue regulations requiring the use of less than first-class air accommodations except in circumstances prescribed in the SGTR.

#### 4. Transportation requests unaccounted for

In 1955, 500 transportation requests, S.F. 1169, were issued to the Commission by the General Services Administration. As of October 15, 1969, the date of completion of our examination of the transportation request forms (either used; voided; or unused, unvoided, and on hand), 29 of these forms were unaccounted for. The numbers of the transportation request forms which were not located by us were furnished to an employee in the accounting section, who advised us that a further search would be made for the transportation requests which had not been accounted for.

On February 4, 1970, we were informed by the accounting section employee that only six transportation requests are still unaccounted for. Four of these were issued around 1961, and two were issued fairly recently. The employee expressed the opinion that the six missing transportation requests were probably misfiled and are probably somewhere in the Commission office.

We noted that although specific procedures were established in 1955 for the control and accounting for transportation requests, some of these procedures were not being followed at the time of our review. We believe that current procedures should be prepared and followed.

#### 5. Fiscal year travel orders

For fiscal year 1969 each Commissioner who was in Office on July 1, 1968, was issued a blanket travel order for the period July 1, 1968 - June 30, 1969. For fiscal year 1970 each of the five Commissioners was issued a travel order for the period July 1, 1969 - June 30, 1970. The blanket travel orders covering the above indicated periods stated the itinerary as "within the continental United States." No estimated travel costs were included.

Section 2.1b of the Standardized Government Travel Regulations States:

"It is expected that ordinarily the authorization will be issued prior to the incurrence of the expenses and will specify the travel to be performed as definitely as possible unless circumstances in a particular case prevent such action."

For the period July 1, 1968 - October 15, 1968, we located several travel orders issued for a Commissioner which were supplementary to the blanket travel order issued for the fiscal year. For some trips, however, we were unable to locate any supplementary travel orders.

We believe that while it may be desirable for the Commissioners to have blanket travel orders covering a fiscal year, Commission regulations should also require the issuance of supplementary travel orders, containing the itinerary for travel, estimated costs and other information provided for on the travel order form, for each individual trip unless particular circumstances prevent such action.

We believe that supplemental travel orders are necessary for various reasons, such as (1) the recording as a tentative obligation sufficient funds to cover the estimated cost of each trip, (2) the authorization of per diem rates within the maximum prescribed by law or reimbursement on an actual subsistence basis when warranted by the circumstances, (3) authorization of the use of first-class accommodations when warranted, and (4) the establishment of a mileage rate within the maximum prescribed by law or regulation for the use of a privately owned vehicle.

You advised us that you agreed there was a need for travel authorizations showing the purpose of each trip and the other information suggested by us but that a final determination had not been reached as to who should authorize the travel of the Commissioners and staff members. We recommend that the Commissioner's travel regulations provide instructions concerning the issuance and approval of travel orders for each trip.

#### c. Rental of aircraft

On May 3, 1968, the Commission entered into a rental agreement with a company for the rental of an aircraft. The company billed the Commission on June 1, 1968, for 50 hours rental of the aircraft at \$21 per hour which was paid by the Commission on June 26, 1968, from the fiscal year 1968 appropriation. Our examination of Commission travel vouchers and related documents showed that the aircraft was used for four trips, one in fiscal year 1968, and three in fiscal year 1969.

On September 8, 1969, more than a year after the last trip, the company billed the Indian Claims Commission for \$651 which according to the invoice was for an additional 21 hours, 40 minutes aircraft rental at \$31 per hour. A September 10, 1969, memorandum from one of the Commissioners to the Executive Director of the Commission states that the aircraft was used for a total of 77 hours and 48 minutes. The memorandum of September 10, 1969, also states that the business manager of the company explained that the reason for the delay in sending the final bill was because the aircraft was being rented to several individuals and that by mistake the bill was included in the wrong account.

The SGTR, section 3.4a, permits the hiring of aircraft if authorized or approved as advantageous to the Government. We found nothing in the Commission files, however, to indicate that a determination had been made that the renting of the aircraft was advantageous to the Government, considering cost, as compared to commercial air travel, travel time, auto rental, other necessary expenses, or other considerations.

Also, in connection with the hiring of this aircraft, Section 1648, Revised Statutes, 31 U.S.C. 529, prohibits payments in advance of the furnishing of services unless authorized by the appropriation concerned or other law. One trip was made in fiscal year 1968, and three trips were made in fiscal year 1969, as indicated previously. We were unable to determine the cost of the trip made in fiscal year 1968, and therefore we do not know how much of the \$1,500 payment made in fiscal year 1968 constitutes an advance payment. However, it appears that most of the payment was an advance payment.

You stated that you would obtain information as to the justification for hiring the aircraft, and that you would issue instructions providing that in the future, payments would not be made in advance of goods or services received.

#### 7. Erroneous travel vouchers

Our detailed examination of 33 travel vouchers for the period January 1, 1968 - October 15, 1969, disclosed discrepancies in six of these vouchers. For four vouchers, the time of return to the point of origin of the travel, Washington, D. C., was not shown on the voucher. A satisfactory explanation was obtained for each of these vouchers, and proper notations made on Commission copies of these vouchers.

On one voucher there was an overpayment of \$87.50 which we called to the attention of your accounting section. The amount of the overpayment has been refunded. One underpayment of per diem was called to the attention of the accounting section and we were advised that the traveler had waived the underpayment.

we suggest that instructions be issued requiring a careful examination of each travel voucher before it is certified for payment.

### CONTRACTING

#### 1. Purchase of electronic court recorder

In May and June 1968, the Commission issued two purchase orders for an electronic court recorder. These documents covered (1) the estimated purchase price of the electronic court recorder, \$2,495.00 and (2) accessories, \$509.10, and installation and service for one year, \$200.00.

The vendor subsequently sent two invoices to the Commission, both dated August 15, 1968, terms - net 30 days, 1/2 of 1 percent - 10 days.

On August 26, 1968, the Commission paid the two invoices in the total amount of \$3,188.07 which was for both invoices less the 1/2 of 1 percent discount.

The Code of Federal Regulations, Title 41, Chapter 1, Section 1-1.302-1, provides in part:

"Before taking procurement action, \* \* \* agencies shall have complied with applicable laws and regulations relative to obtaining supplies or services from Government sources and from contracts of other Government agencies. These include excess and surplus stocks in the hands of any Government agency, Federal Supply Schedules, \* \* \*."

The U.S. Code, Title 41, Section 252(c), also provides in part:

"All purchases and contracts for property and services shall be made by advertising \* \* \* except that such purchases and contracts may be negotiated by the agency head without advertising if - \* \* \* (3) the aggregate amount involved does not exceed \$2,500; \* \* \* (10) for property or services for which it is impracticable to secure competition; \* \* \* (15) otherwise authorized by law."

According to files examined by us, the company from which the purchase was made was the only company to submit a bid for the electronic court recorder. We found nothing in the Commission's files to indicate that the law and regulations concerning advertised procurement, use of Government surplus stock, or the Federal Supply Schedules were complied with in this procurement.



2. Contract for furnishing a digest of the reports, orders, decisions, and rulings of the Commission

The review of the contract file, including an analysis of the contract and the contractor's performance, prepared by one of the Commissioners, showed the following information concerning this contract.

On June 10, 1968, the Commission issued a solicitation for offers for professional services for furnishing a digest of the reports, orders, decisions and rulings of the Commission for the period November 15, 1948, through May 1, 1968, and on a yearly basis thereafter until the end of the Commission as provided by 81 Stat. 11, and a comprehensive index and locator system therefor. The solicitation stipulated that the deadline for the submission of offers would be June 21, 1968. The solicitation was sent to eight companies. Although the solicitation was identified as an advertised procurement there were changes made on the solicitation form, such as the deletion of the requirement for sealed bids, and reference to the solicitation as being for informal proposals, which indicated that the contract would be negotiated. Also, the files show that two of the firms requested to bid were advised orally of changes in the scope of work shown on the solicitation.

Two of the companies submitted bids. One other company wrote to the Commission on June 24, 1968, advising that the deadline for submission of offers gave that company too short a time to prepare a careful offer. There was no response from five of the eight companies to which the solicitation was sent.

The files show that one of the two companies which submitted a bid offered to perform the work for \$75,900, by bid received by the Commission on June 21, 1968. This bid included work involving preparation of digests of the Commission's reports, orders, decisions, and rulings for printing. Also, based on oral modifications requested by the Clerk of the Commission the offer of this company covered additional work not included in the offer of the other company.

On June 21, 1968, the company which eventually received the contract submitted a bid for \$47,500 which did not include preparation of the solicited work in such a way that it would be ready for printing. On June 22, 1968, this company submitted an additional bid for \$34,000, which included work involving preparation of the digests of the decisions and other material in such a way that it could be printed by the Government Printing Office. At this point the total of this company's two bids was \$81,500. By telegram received by the Commission on June 25, 1968, this company reduced the total to \$74,000. There is no indication in the file that the other

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company which submitted a bid but did not receive the contract was given an opportunity to reduce its bid or to bid on exactly the same terms as the company which eventually received the contract.

A contract dated June 24, 1968 (one day before receipt of the telegram reducing the price proposal to \$74,000, referred to above) was awarded for a total consideration of \$74,000, to be paid \$12,000 during fiscal year 1968, \$38,000 during fiscal year 1969, and \$24,000 during fiscal year 1970.

On July 1, 1968, the Commission wrote to the contractor and stated:

"We would appreciate your billing us for \$20,000 as of June 24, 1968. During fiscal year 1969 we shall pay \$38,000, and on July 1, 1969, if the work is completed you may bill us for \$24,000."

Presumably thereafter, by letter dated June 24, 1968 (date of receipt of letter by the Commission not known by us but presumably sometime after the July 1, 1968, letter from the Commission requesting the billing), the contractor wrote to the Commission, advising that they were enclosing an invoice in the sum of \$20,000 covering work in progress under the contract.

On June 28, 1968, the Commission issued a purchase order for \$20,000, on which was typed: "\*\*\* Contract (Indexing)." On August 23, 1968, \$20,000 was paid to the contractor from the Commission's fiscal year 1968 appropriation.

On March 26, 1969, the Commission wrote to the contractor:

"As indicated by prior correspondence and during the course of conferences with you \* \* \*. Your work under this contract has been unacceptable and continues to be unacceptable. \* \* \* Please discontinue work under the contract."

On April 14, 1969, the contractor wrote to the Commission, stating that up to the receipt of the Commission's letter of March 26, 1969, advising the contractor to discontinue work under the contract, the contractor had invested on the project in supervision, editorial, manuscript, and proofreading time a total of 1,373 hours, and that the contractor's total cost to this point was \$20,202.94. A summary of the work was outlined in the letter. The contractor further stated

"as you know, we would like very much to complete the project in the manner which we understand the contract specifies. But if this is unsatisfactory then we would suggest that the contract be terminated."

On May 5, 1969, the Commission and the contractor signed an agreement terminating the contract, and on May 21, 1969, the contractor returned to the Commission the Commission volumes previously sent to them, and also sent copy slips for summary and digest for volumes 1-7.

On June 6, 1969, the contractor sent a final invoice to the Commission for \$202.94, which was paid on June 17, 1969, from the Commission's fiscal year 1969 appropriation.

The headnotes and summaries prepared by the contractor are at the Commission's office. We were advised that the Commission might subsequently be able to use some of the work, though not in its present form.

In our opinion, this procurement was deficient in the following respects:

a. Inadequate negotiation

(1) Oral modifications of the scope of the work resulted in the receipt of two bids which were not for the same work and there is no indication that the other six firms solicited were advised on the change in the scope of the contract.

(2) The original low bidder was not given an opportunity to bid on exactly the same terms as the company to which the contract was awarded or given the same opportunity to reduce the price included in its original proposal.

b. Advance payment to contractor

On August 27, 1968, the contractor acknowledged receipt of the check for \$20,000, which according to the contractor's letter was for "work in progress under our contract with the Indian Claims Commission."

Because we were unable to locate any progress reports from the contractor, it was not possible for us to determine how much of the \$20,000 payment of August 27, 1968, constitutes an advance payment. However, based on the dates of the contractor's letters acknowledging receipt of Commission volumes on which work was to be done, a part of the \$20,000 payment appears to have been an advance payment contrary to the provisions of 31 U.S.C. 529 cited previously.

c. Contract obligations made in violation of Anti-Deficiency Act

31 U.S.C. 665(a) provides that:

"No officer or employee of the United States shall make or authorize an expenditure from or create or authorize an obligation under any appropriation or fund in excess of the amount available therein; nor shall any such officer or employee involve the Government in any contract or other obligation, for the payment of money for any purpose, in advance of appropriations made for such purpose, unless such contract or obligation is authorized by law."

Also, see 20 Comp. Gen. 868; 42 Id. 272.

The contract originally awarded June 24, 1968, and amended by letter of July 3, 1968, provided for payment by the Commission of \$20,000 in fiscal year 1968, \$30,000 in fiscal year 1969, and \$24,000 in fiscal year 1970.

The contractual obligation to pay \$30,000 in fiscal year 1969 and \$24,000 in fiscal year 1970, in advance of appropriations made, appears to be in conflict with the provisions of 31 U.S.C. 665(a).

As related previously, the contract was terminated on May 5, 1969, and only \$202.94 was paid from the fiscal year 1969 appropriation. Nothing was paid from the fiscal year 1970 appropriation.

You stated that you do not disagree with any of the contracting deficiencies cited above, and that you would issue regulations to prevent recurrence of such deficiencies. We recommend that the regulations should include instructions concerning (1) compliance with applicable law and regulations concerning advertised procurement, use of Government surplus stock, or the Federal Supply Schedules, and the procedures to be used in regulated procurements, (2) the prohibition against the obligation of funds in advance of appropriations, citing particularly 31 U.S.C. 665(a), and (3) the provisions of law prohibiting payments in advance of the furnishing of goods or services. The latter point was also discussed in connection with the aircraft rental.

ACCOUNTING FOR EQUIPMENT

The general ledger account for Equipment, as of June 30, 1969, had a balance of about \$77,000.

The last complete physical inventory of equipment was taken, according to files located by us, in December 1967. A partial inventory was taken in August 1968 and again in January 1969. There is also in the files a purportedly current list of typewriters, adding machines, dictating machines, and transcribing machines.

A file of equipment cards (not up-to-date and apparently incomplete) was also examined by us. Our examination showed that the last entry made on these cards was June 22, 1967. Because the equipment cards were incomplete, we were not able to reconcile the total of the equipment cards with the equipment balance in the general ledger account.

You advised us that plans would be made for an inventory of equipment and updating of the equipment card file.

#### PAYROLL

We found that in several instances the hours of time on duty and hours of leave were being recorded on time and attendance forms after the close of the pay period during which the employees worked. We also noted that for several employees who worked at the Commission during the summer of 1968, time and attendance forms did not show any recording of time and attendance or leave.

Title 6, sections 16.2 and 20.7, of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies provides for daily recording for time and attendance and leave taken. We recommend that the applicable provisions of the above-cited manual be followed.

#### OTHER

The Indian Claims Commission received a bill dated July 25, 1968, for an examination fee for the Law School Admission Test for an employee of the Commission. The amount of the bill was \$12, and was paid October 30, 1968, by the Commission. The Commission also received a bill dated October 28, 1968, for a university entrance fee for the same Commission employee. The amount of this bill was \$25, and was paid January 21, 1969, by the Commission.

We requested information as to why Commission funds were used for these payments which appear to have been for personal expenses of the employee. You advised us that you believed that there might be a document in the Commission files concerning the authority for the entrance fee payment, and that you would advise us further on this and the examination fee.

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ORIGINAL DOCUMENT AVAILABLE

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In accordance with section 13 of title 8 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, the records of financial transactions through June 30, 1969, may be transmitted to the Federal Records Center for storage.

We wish to acknowledge the courtesy and cooperation extended to our representatives during the review. We request your comments and advice as to any further action taken or planned on the matters discussed in this letter.

Sincerely yours,

Charles P. McAuley

Charles P. McAuley  
Assistant Director

The Honorable Jerome K. Kuykendall  
Chairman, Indian Claims Commission  
726 Jackson Place, N. W.  
Washington, D. C. 20506

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